

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Yolanda Brown-Gailliard,)	
)	
Plaintiff,)	C/A No. 2:12-3550-RMG
)	
v.)	
)	ORDER
The ACE Partnership of Charleston, SC,)	
d/b/a McDonald's Hamburgers,)	
)	
Defendant.)	
)	

This matter is before the Court on the Report and Recommendation of the Magistrate Judge recommending that the Court deny Defendant's motion to dismiss. (Dkt. No. 13). For the reasons set forth below, the Court agrees with and adopts the R&R as the order of the Court.

Background

Plaintiff filed this civil action asserting causes of action for race and sex discrimination, racial and sexual harassment, and retaliation, all in violation of Title VII of the Civil Rights Act of 1964, as amended; violation of 42 U.S.C. § 1981; and violation of the South Carolina Human Affairs Law. (Dkt. No. 1). Pursuant to 28 U.S.C. § 636(b)(1)(A) and Local Civil Rule 73.02(B)(2)(g) DSC, this case was automatically referred to a United States Magistrate Judge for pretrial handling. Defendant then filed a motion to dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. (Dkt. No. 8). Plaintiff filed a response in opposition (Dkt. No. 10) and Defendant filed a reply (Dkt. No. 11). The Magistrate Judge then issued an R&R recommending the Court deny Defendant's motion. (Dkt. No. 13). Neither party filed timely objections.

Legal Standard

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a de novo determination of those portions of the R&R to which specific objection is made. Additionally, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). This Court may also “receive further evidence or recommit the matter to the magistrate judge with instructions.” *Id.*

Discussion

After careful review of the record and the R&R, the Court finds that the Magistrate Judge accurately summarized and applied the law to the facts of this case and therefore adopts the R&R as the order of the Court. The Court agrees with the Magistrate Judge that under the legal standards the Court must apply when reviewing a motion filed pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, that Plaintiff’s complaint alleges sufficient facts to state a claim for relief.

Conclusion

For the reasons set forth above, the Court agrees with and adopts the R&R as the order of the Court. (Dkt. No. 13). Accordingly, Defendant’s motion to dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure is DENIED. (Dkt. No. 8).

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Court Judge

July 11, 2013
Charleston, South Carolina